

REMARKS

In view of the following remarks and the foregoing amendments, reconsideration and allowance are respectfully requested.

Claims 1-26 were pending at the time of this action, with Claims 1, 14, and 26 being independent. Claims 1, 3, 7, 10, 14, 20, 23, and 26 are amended. Claims 6, 8, 11, 13, 17-19, 22 are cancelled. Claims 27-37 are newly-added claims. No new matter has been added (e.g., see specification: Figs. 5A-5B, pages 18-20, paragraphs 55-61). Hence, claims 1-5, 7, 9-10, 12, 14-16, 20-21, 23-37 are currently pending, with claims 1, 14, 26, and 30 being independent.

Claims 1-26 stand rejected under 35 U.S.C. 102(e) as allegedly being anticipated by Williams (2005/0197946).

Claims 1-3, 8-9, 12-13, and 26 stand rejected under 35 U.S.C. 102(e) as allegedly being anticipated by Wang (U.S. Patent Application Publication No. 2003/0154134).

Claims 4-7 and 10-11 stand rejected under 35 U.S.C. 103(a) as allegedly being unpatentable over Wang (U.S. Patent Application Publication No. 2003/0154134) in view of Jin (U.S. Patent Application Publication No. 2005/0033648).

Claims 14-25 stand rejected under 35 U.S.C. 103(a) as allegedly being unpatentable over the combination of Wang and Jin in view of Zeidman (US 2006/0190352).

Interview Summary

Applicants would like to thank the Examiner for the courtesies extended to the applicants' representatives during the interview on November 13, 2007 ("the interview"). In the interview, Applicant's representatives generally discussed the claims in view of the cited prior art. As discussed during the interview, Applicants have amended the claims to clarify the claimed invention and place the claims in better condition for allowance. Applicants have also added new claims 27-37 including limitations that define over the prior art, as discussed during the interview. The substance of the interview is incorporated into the remarks that follow.

35 U.S.C. 102(e) – Claims 1-5, 7, 9-10, 12, 14-16, 20-21, 23-26 (Williams)

Regarding the rejection of claims 1-5, 7, 9-10, 12, 14-16, 20-21, 23-26 under 35 U.S.C. 102(e) as being unpatentable over Williams, applicants filed a renewed petition under 37 CFR § 1.78(a)(3) to claim priority to the application for U.S. Patent Application Publication No. 2003/0154134 on 10/26/2007.

A Supplemental Amendment to the Specification to claim priority to Williams was also filed on 10/26/2007. In the Supplemental Amendment, Masami Suzuki was listed as a co-inventor for the application for U.S. Patent Pub. No. 2005/0197946. See Figs. 5A-5B, page 7, paragraphs 67-73 in U.S. Patent Pub. No. 2005/0197946 for support for independent claims 1, 14, and 26 of the current application (10/797,906). For example, Figs. 5A-5B show examples of a dashboard. Moreover, Figs. 5A-5B, page 7, paragraphs 67-73 in U.S. Patent Pub. No. 2005/0197946 are similar to Figs. 5A-5B, pages 18-20, paragraphs 55-61 of the current application (10/797,906).

As a result of this claim of priority, Williams is not a proper 102(e) reference in that it is not prior art to the current application. Hence, the rejection to claims 1-5, 7, 9-10, 12, 14-16, 20-21, 23-26 under 102(e) should be withdrawn.

35 U.S.C. 102 - Claims 1-3, 8-9, 12, and 26 (Wang)

Claims 1-3, 8-9, 12, and 26 are patentable over Wang at least because Wang fails to disclose each and every feature of the claims. Wang discloses a server side software program that allows sellers and buyers to enter and bid on items in an online auction (Wang: Abstract). Wang discloses management techniques that allow sellers to generate sales reports, create buyers reports, generate shipping information, and track particular items (Wang: Abstract; page 2, paragraph 13). However, Wang fails to disclose the features of independent claims 1 and 26, as amended, in regards to "reporting to the seller organized groups of metrics in a dashboard, wherein: the metrics comprise generated quantitative information associated with top-line highlights, bottom-line highlights, and SKU-level information, the top line highlights comprise a comparison of sales performance and **sales forecasts**, the bottom line highlights comprise a report of costs and a bottom line sales performance, and the **dashboard comprises** the top line

highlights, the bottom line highlights, the SKU-level information, and an executive summary with qualitative subjective information that provides value to the generated quantitative information" (emphasis added).

The Office Action asserts that Fig. 5 of Wang discloses the "reporting metrics" of claims 1 and 26. However, even assuming for the sake of response that this assertion is correct, Applicant submits that Wang does not disclose or properly suggest, "reporting to the seller organized groups of metrics in a dashboard, wherein: the metrics comprise generated quantitative information associated with top-line highlights, bottom-line highlights, and SKU-level information, the top line highlights comprise a comparison of sales performance and sales forecasts, the bottom line highlights comprise a report of costs and a bottom line sales performance, and the dashboard comprises the top line highlights, the bottom line highlights, the SKU-level information, and an executive summary with qualitative subjective information that provides value to the generated quantitative information" (emphasis added) as recited in amended independent claim 1. Instead, Fig. 5 of Wang shows an "Ebay Accounting Screen". Wang discloses the following in regards to Fig. 5.

This screen shows the accounting for a one-month period (340). There is an accounting of the total item listed on Ebay (350), total items sold (360), and total items paid (370). There is also a blank for total sales amount (380), total shipping cost (390), and total payment received (400). There is a table that has the primary catalogue (100) from the item description page (90). Also in this table is the sold auctions (410), sales amounts (420) and shipping costs (430). There is also an over due day chart (440) also so the user may view which payments or items are overdue on increments of 15 days. Wang, p. 3, paragraph 56.

Hence, it is apparent from Fig. 5 and the disclosure of Wang that Wang does not disclose or teach that "the top line highlights comprise a comparison of sales performance and sales forecasts," as in amended claim 1 (e.g., see support in specification on page 23, paragraph 70; Fig. 5A). Instead of showing how well the merchant's sales perform when measured against forecasts, Wang shows multiple graphical user interfaces for data entry (i.e., Wang: Figs. 1-4, 6), and a screen showing a one-month accounting of a status of items listed and sold on eBay (Wang: Fig. 5; page3, paragraph 56). Contrary to the assertion in the office action, Fig. 5 of Wang does not show all of the features of claim 1, as amended. Not only is Wang silent on (1)

presenting sales forecasts in Fig. 5, Wang is also silent on (2) presenting a comparison of sales performance with sales forecasts. For at least these reasons, Wang fails to disclose all the features of the “top-line highlights,” as recited in claim 1. For at least this reason, independent claim 1 is patentable over Wang.

Furthermore, Wang fails to disclose all of the recited features of an “executive summary.” The “executive summary” has qualitative subjective information that provides value to the quantitative information in the other panels in the dashboard (*see e.g.*, support in specification in Fig. 5A and related description). Instead of showing an “executive summary” as recited in claim 1, Wang only shows a screen showing a one-month accounting of a status of items listed and sold on eBay (Wang: Fig. 5; page3, paragraph 56). Wang is silent on showing an “executive summary.” The list of the total items listed on eBay 350, the total items sold on eBay 360, the total items paid 370, the total sales amount 380, the total shipping costs 390, the total payment received 400, the list of categories 100, and the over due days 440 are not an “executive summary.”

Furthermore, page 5 of the office action acknowledges that Wang does not disclose recommendations to improve the sale price of items. The office action also acknowledges that Wang does not disclose comparing actual sales to sale targets. Since Wang fails to disclose each and every recited feature of an “executive summary,” claim 1 is patentable over Wang for these additional reasons.

Thus, Wang fails to disclose each and every feature of claim 1 and claim 26 for reciting similar features. Therefore, the rejection to claims 1 and 26 under 35 U.S.C. 102(e) should be withdrawn, and these independent claims should be placed in condition for allowance.

Claims 2-3, 9, 12

Claims 2-3, 9, 12 are patentable for at least depending on an allowable base claim, claim 1. These dependent claims should be placed in condition for allowance.

35 U.S.C. 103 - Claims 4-7, 10 (Wang and Jin)

Claims 4-7, 10 are patentable over the suggested combination of Wang and Jin at least because the suggested combination fails to teach or suggest each and every feature of base claim 1. These dependent claims are further patentable for reciting allowable subject matter in their own right.

Contrary to the office action's assertions that Wang discloses all of the features listed under 35 U.S.C. 102(e) in the office action, the above discussion demonstrates that dependent claims 4-7, 10 are patentable at least because Wang fails to disclose (1) an executive summary and (2) top-line highlights. Jin fails to remedy the deficiencies of Wang. When combined with Jin, the suggested combination of Wang and Jin fails to teach or suggest all of the features of the claims.

For example, pages 5, 7-8 of the office action state that the Abstract of Jin shows the claim 4 features of "the metrics comprises recommendations to improve any of the top-line highlights and bottom-line highlights." However, the Abstract of Jin is silent on the alleged recommendations. In particular, the Abstract teaches that Jin discloses a sales system for lots of items that includes business rule definition logic. The Abstract discloses that the system includes offering creation logic that dynamically creates different offerings for items in the lots, and optimizes return based on business rules for the different items. Overall, the Abstract of Jin teaches using only objective rules and instructions, such as business rule definition logic, in creating offerings and optimizing returns for those offerings. Hence, no recommendations are taught or suggested in the Abstract of Jin. Since no recommendations are taught, Jin fails to teach or suggest an executive summary according to base claim 1.

Page 8 of the office action also states that the paragraph 114 of Jin shows the claim 4 features of "the metrics comprises recommendations to improve any of the top-line highlights and bottom-line highlights." However, paragraph 114 of Jin does not teach these features. For example, paragraph 114 of Jin recites:

Referring also to FIG. 15, an edit item button 66 on the item page 60 can lead the user to an item edit page 70. This page includes a number of controls that allow the user to provide information about the item. This information can include item

description items and sales parameters. The item description items can include a product name, an item number/SKU, an image location, a shipping weight, and a description. The sales parameters can include the quantity available, the retail price, the cost, and the target recovery rate. The sales parameters can also include default auction durations, start prices and bid increments. Jin, p. 7, paragraph 114.

Accordingly, the suggested combination of Jin and Wang cannot teach or suggest the claim 4 features of "recommendations to improve any of the top-line highlights and bottom-line highlights." As discussed above, Wang fails to disclose recommendations, and the Abstract and paragraph 114 of Jin are silent on providing recommendations. Therefore, in addition to the suggested combination not teaching or suggesting each and every feature of the base claim, dependent claim 4 is patentable over the suggested combination for this additional reason.

Furthermore, the office action alleges on page 5 that Fig. 5 of Jin discloses feedback on a condition of sales in comparison to sales targets. However, Fig. 5 of Jin fails to teach or suggest a feedback on a condition of sales in comparison to sales targets that are determined by the seller. Instead, Jin teaches that Fig. 5 is a search page 40 that allows customers to search for SIMS (Surplus Inventory Management System) listings (Jin: Fig. 5, page 3, paragraphs 65-81). The customers can search inventory by a certain criteria (e.g., SKU, Title, Quantity Available, Start Time, End Time, Target Cost Recovery Rate according to business logic). Hence, the inventory search page 40 of Fig. 5 is not feedback on a condition of sales in comparison to sales targets determined by the seller. Fig. 5 of Jin is silent on teaching this feature. Moreover, Fig. 5 of Jin fails to teach or suggest an executive summary and top-line highlights according to base claim 1 as described above. Hence, a case of *prima facie* obviousness has not been established.

Accordingly, the suggested combination of Jin and Wang cannot teach or suggest the claim 5 features of providing "feedback on a condition of sales in comparison to one or more sales targets, wherein a performance of actual sales is tracked relative to the one or more sales targets." As discussed above, Wang fails to teach or suggest recommendations or comparisons, and Jin fails to teach or suggest feedback on a condition of sales in comparison to sales targets determined by the seller. Therefore, in addition to the suggested combination not teaching or

suggesting each and every feature of the base claim, dependent claim 5 is patentable over the suggested combination for this additional reason.

Claims 4-7, 10 are patentable for at least depending on an allowable base claim, claim 1. As shown above, these dependent claims are further patentable for reciting allowable subject matter in their own right. Hence, these dependent claims should be placed in condition for allowance.

Claims 14-16, 20-21, 23-25 (Jin and Wang)

Claims 14-16, 20-21, 23-25 are patentable over the suggested combination of Wang and Jin at least because the suggested combination fails to teach or suggest each and every feature of the claims. With respect to amended independent claim 14, Jin and Wang fail to teach or suggest an executive summary as described above. Since each and every feature of the claims are not taught by the suggested combination, the rejection under 35 U.S.C. 103 fails to establish a *prima facie* case of obviousness. Base claim 14 is patentable for this reason alone.

Furthermore, the suggested combination fails to teach or suggest “an executive summary with **qualitative subjective information that provides value to quantitative information ... the qualitative subjective information comprises recommendations to improve sales based on the sales activity of the seller,**” as recited in claim 14 (emphasis added). Independent claim 14 is further patentable over the suggested combination for this reason.

Page 6 of the Office Action asserts that Wang discloses reports providing information from a connection provider to a seller, and refers to Fig. 5 for this disclosure. However, even assuming for the sake of response that this assertion is correct, Applicants submit that Fig. 5 does not disclose or properly suggest an “executive summary” as recited in independent claim 14. Furthermore, Fig. 5 of Wang fails to teach or suggest “qualitative subjective information that provides value to quantitative information,” as recited in claim 14. Wang is silent on these features. Further, Jin does not cure this deficiency for the same reasons detailed above. Therefore, neither Wang nor Jin, nor any proper combination of the two, discloses or suggests at least these features of claim 14.

Page 6 of the Office Action asserts that Jin discloses targets relating to forecasts determined by the seller, and refers to Fig. 5, paragraph 31 for this disclosure. However, Applicants submit that Fig. 5 does not disclose or properly suggest an “executive summary” as recited in independent claim 14. Instead, Jin teaches that Fig. 5 is an inventory search page 40 that allows customers to search for SIMS (Surplus Inventory Management System) listings (Jin: Fig. 5, page 3, paragraphs 65-81). The customers can search for inventory by a certain criteria (e.g., SKU, Title, Quantity Available, Start Time, End Time, Target Cost Recovery Rate according to business logic). Furthermore, Fig. 5 of Jin fails to teach or suggest “qualitative subjective information that provides value to quantitative information ... the qualitative subjective information comprises recommendations to improve sales based on the sales activity of the seller,” as recited in claim 14. Further, Wang does not cure this deficiency for the same reasons detailed above. Therefore, neither Wang nor Jin, nor any combination of the two, discloses or suggests at least these features of claim 14.

Applicants further submit that the logic taught in Jin (e.g., paragraphs 110-111) does not disclose or properly suggest an “executive summary” as recited in independent claim 14. For example, Jin teaches in paragraphs 110-111 that a user uses the business rule definition logic to provide feedback within a sales channel and/or between channels (e.g., paragraph 110 gives an example of a user creating a rule that would cause a listing to be generated on a home site for 20 days, and then cause the remaining inventory to be liquidated through an auction provider). Hence, the feedback in or between channels as taught in Jin is objective information from rules-based definition logic, and not “qualitative subjective information that provides value to quantitative information ... the qualitative subjective information comprises recommendations to improve sales based on the sales activity of the seller,” as recited in claim 14 (emphasis added). Further, Wang does not cure this deficiency for the same reasons detailed above. Therefore, neither Wang nor Jin, nor any combination of the two, discloses or suggests at least these features of claim 14.

Page 6 of the Office Action asserts that Jin discloses a summary with recommendations and analysis, and refers to the Abstract and paragraph 31 for this disclosure. However,

Applicants submit that the Abstract and paragraph 31 do not disclose or properly suggest an "executive summary" as recited in independent claim 14 for the same reasons detailed above. Furthermore, the Abstract and paragraph 31 of Jin fail to teach or suggest all of the above-recited features in claim 14. Further, Wang does not cure this deficiency for the same reasons detailed above. Therefore, neither Wang nor Jin, nor any combination of the two, discloses or suggests at least these features of claim 14.

For at least these reasons, the suggested combination of Wang and Jin fail to teach or suggest each and every feature of claim 14. Thus, the rejection to claim 14 under 35 U.S.C. 103 should be withdrawn, and claim 14 should be placed in condition for allowance.

Claims 15-16, 20-21, 23-25 are patentable for at least depending on an allowable base claim, claim 14. These dependent claims are further patentable for reciting allowable subject matter in their own right. Hence, these dependent claims should be placed in condition for allowance.

Claims 14-16, 20-21, 23-25 (Jin, Wang, and Zeidman)

Claims 14-16, 20-21, 23-25 are patentable over the suggested combination of Wang, Jin, and Zeidman at least because the suggested combination fails to teach or suggest each and every feature of the claims. As disclosed above, the suggested combination of Jin and Wang fails to disclose several features of the claims. Since the office action acknowledges that "the combination of Wang and Jin does not expressly disclose a reporting tool to present reports with qualitative subjective information," the office action applies Zeidman for allegedly "disclosing a system comprising a reporting tool to present reports with qualitative subjective information (Zeidman: figure 10) ... to allow a seller to determine the best way to sell their item" (Zeidman: Abstract).

The office action does not point out where and how Zeidman would teach an "executive summary" as discussed above. Hence, Zeidman does not remedy the deficiencies of Jin and Wang. Hence, a *prima facie* case of obviousness has not been established for the suggested

combination of Jin, Wang, and Zeidman. Independent claim 14, and dependent claims 15-16, 20-21, 23-25 are all patentable over the suggested combination for these reasons alone.

Furthermore, Fig. 10 and the Abstract of Zeidman do not disclose the claim 14 features of “the reporting tool comprises a dashboard with an executive summary with qualitative subjective information that provides value to quantitative information in any one of the one or more reports and the dashboard, the qualitative subjective information comprises **recommendations to improve sales based on the sales activity of the seller**” as recited in claim 14, as amended (emphasis added). Instead, the Abstract of Zeidman discloses the following.

The present invention provides a method and apparatus to allow sellers at online auctions to optimize the way they sell items and get the best possible price for the items. The invention provides a method for **searching a database for data on previous sales of similar items at online auction websites**. The data can then be summarized and graphed. Using this data, the seller can make his own conclusions about the best way to sell his item, or he can get a recommendation from the invention about the best way to sell the item. **If data about similar items are not available in the database, the invention allows the seller to start an agent program that will search various auction sites for the data over a period of time.** Zeidman, Abstract (emphasis added).

Hence, Fig. 10 and the Abstract of Zeidman teach creating a recommendation by searching for information for similar items **derived from other auction websites**. As further explained on page 1, paragraphs 3-4 of Zeidman, “the invention provides a method for a Web server computer to **gather data about sales at online auction websites** using what are called ‘spiders’ or ‘agents,’” and “the Web server computer then examines its database of items that have already been sold at various online auction websites and sends this data back to the seller via the Internet, where the seller computer displays the data to the seller in a user-friendly, readable manner.” Zeidman does not disclose or suggest “recommendations to improve sales **based on the sales activity of the seller**” (emphasis added). Thus, Zeidman fails to remedy the deficiencies of Jin and Wang for this additional reason.

For at least these reasons, the suggested combination of Wang, Jin, and Zeidman fail to teach or suggest each and every feature of claim 14. Thus, the rejection to claim 14 under 35 U.S.C. 103 should be withdrawn, and claim 14 should be placed in condition for allowance.

Claims 15-16, 20-21, 23-25 are patentable for at least depending on an allowable base claim, claim 14. These dependent claims are further patentable for reciting allowable subject matter in their own right. Hence, these dependent claims should be placed in condition for allowance.

Newly-Added Claims – Claims 27-37

Claims 27-37 are newly-added claims. No new matter has been added (*see e.g.*, specification: Summary; Figs. 4, 5A-5B and related description).

Applicants have included limitations in claims 27-37 not disclosed, taught, or suggested in the cited art. For example, independent claim 30 recites, among other features, **“producing a recommendation for improving the sales performance when the sales performance declines from a prior time period, wherein the recommendation comprises performing a web-based adjustment to the online sales channel to improve the sales performance for the plurality of items for sale; and providing the recommendation at a location in the dashboard that indicates where the sales performance declines”** (emphasis added). All of these limitations are not provided, disclosed, or suggested in the applied references, either individually or in any combination.

Further, all of the newly-added dependent claims are patentable over the cited art for one or more reasons. For example, dependent claim 28 recites, among other features, **“a chart of periodic sales activity for the items for sale; a list of best-selling items comprising key statistics for the periodic sales activity; a list of slow-selling items comprising key statistics for the periodic sales activity; a list of top-margin items comprising key statistics for the periodic sales activity; and a recommendation for improving a velocity of sales based on seasonal sales activity of the seller, wherein the key statistics for the periodic sales activity comprise metrics related to gross merchandise sales and net merchandise sales for a tracked time frame”** (emphasis added). Dependent claim 29 recites, among other things **“wherein the recommendation comprises a recommendation for an adjustment to levels of inventory to adjust for seasonal promotions”** (emphasis added). Dependent claim 33 recites,

among other things, **“wherein the web-based adjustment includes providing an indication that an inventory level of the plurality of items is limited on the online sales channel”** (emphasis added). Dependent claim 34 recites, among other things, **“wherein the recommendation comprises providing an indication to adjust an inventory level for seasonal promotions”** (emphasis added). All of the dependent claims have features that are not provided, disclosed, taught, or suggested in the applied references, either individually or in any combination.

All newly-added claims are patentably distinct over the applied art, whether applied individually or in any combination. Applicants ask that claims 27-37 be placed in condition for allowance.

In Conclusion

In view of the amendments and remarks herein, the Applicants believe that claims 1-5, 7, 9-10, 12, 14-16, 20-21, 23-37 are in condition for allowance and ask that these pending claims be allowed. The foregoing comments made with respect to the positions taken by the Examiner are not to be construed as acquiescence with other positions of the Examiner that have not been explicitly contested. Accordingly, the arguments for patentability of a claim should not be construed as implying that there are not other valid reasons for patentability of that claims or other claims.

The fee in the amount of \$460 in payment for the 2-Month Extension of Time fee is being paid concurrently herewith on the Electronic Filing System (EFS) by way of Deposit Account authorization. Please apply any other charges or credits to Deposit Account No. 06-1050.

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